

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, OCTOBER 3, 2001**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of October 3, 2001 was called to order by Mayor Nakanishi at 6:08 p.m.

Present: Council Members – Hitchcock (arrived at 6:09 p.m.), Howard, Pennino and Mayor Nakanishi

Absent: Council Members – Land

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

C-2 ANNOUNCEMENT OF CLOSED SESSION

a) Actual litigation: Government Code §54956.9(a); one case; *Foreman / Quenzer v. City of Lodi et al.*, San Joaquin County Superior Court Case No. CV 009074

C-3 ADJOURN TO CLOSED SESSION

At 6:08 p.m., Mayor Nakanishi adjourned the meeting to a Closed Session to discuss the above matter.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:05 p.m., Mayor Nakanishi reconvened the City Council meeting, and City Attorney Hays disclosed the following action.

In regard to item C-2(a), the City Council authorized staff to negotiate a settlement in the case of *Foreman / Quenzer v. City of Lodi et al.*

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of October 3, 2001 was called to order by Mayor Nakanishi at 7:05 p.m.

Present: Council Members – Hitchcock, Howard, Pennino and Mayor Nakanishi

Absent: Council Members – Land

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

B. INVOCATION

Mayor Nakanishi expressed thanks to First Baptist Church of Lodi, Spanish Ministry for its participation in the Celebration on Central event.

The invocation was given by Pastor Steve Newman, First Baptist Church of Lodi.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Nakanishi.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 (a) Mayor Nakanishi presented a proclamation to Electric Utility Director Vallow proclaiming the week of October 7 – 13, 2001 as "Public Power Week" in the City of Lodi. Sondra Huff, Government Affairs Manager, reported that 350 elementary students are scheduled to tour Electric Utility next Wednesday.

On behalf of Assembly Member Anthony Pescetti, John Beckman, Field Representative, presented a resolution to the City in acknowledgment of the leadership it demonstrated during the energy crisis.

- D-3 (a) Laura Heinitz, member of the Lodi Arts Commission, updated the City Council on the activities and accomplishments of the Arts Commission.
- D-3 (b) Animal Services Officer Terri Arbuckle provided a report on the first annual Mardi Paw and Canine Festival, which will be held on October 6, 2001, from 10:00 a.m. until 2:00 p.m., at the Lodi Lake Youth Area. This event is a production of the Lodi Animal Shelter Volunteers, and all funds raised benefit the animals at the Lodi Animal Shelter. Ms. Arbuckle thanked Shelter Volunteer Daunis Bradshaw for her hard work in organizing this event.
- D-3 (c) Fire Chief Pretz reported that all proceeds from the FireWalker 5K event will go to the New York firefighters. He introduced Monica Slingerman, San Joaquin County Coordinator for Special Olympics, who announced the "Walk for the Gold" event, which will be held October 13, 2001 at Lodi Lake.
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E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Hitchcock, Pennino second, approved the following items hereinafter set forth **except those otherwise noted**. The motion carried by the vote shown below:

Ayes: Council Members – Hitchcock, Howard, Pennino and Mayor Nakanishi

Noes: Council Members – None

Absent: Council Members – Land

- E-1 Claims were approved in the amount of \$5,390,090.68.
- E-2 The minutes of September 5, 2001 (Regular Meeting), September 18, 2001 (Shirtsleeve Session), September 18, 2001 (Special Meeting), and September 25, 2001 (Shirtsleeve Session) were approved as written.
- E-3 "Receive PCE/TCE Report of Expenditures" was **removed from the Consent Calendar and discussed and acted upon under the Regular Calendar**.
- E-4 Approved the plans and specifications for bids for installation of Electric Utility Substructures, Cherokee Lane and Sunwest Area, and authorized advertisement for bids.
- E-5 Approved the plans and specifications for a one-yard front-end loader/tool carrier for the Street Division, authorized advertisement for bids, and approved the funding source as recommended by staff.
- E-6 Adopted Resolution No. 2001-227 rejecting all bids, approving the revised specifications for 2001-2002 City-Wide Handicap Ramp Retrofit Project, and authorizing readvertisement for bids.
- E-7 Adopted Resolution No. 2001-228 awarding the contract for Roget Park Site Improvements, Phase I, to Berndt Tree Service, of Lodi, in the amount of \$10,400, and appropriated \$12,000 for the project.
- E-8 "Adopt resolution awarding contract for Outdoor Skate Park Facility, 1145 South Ham Lane, to A.M. Stephens Construction Company, Inc., of Lodi (\$222,150)" was **removed from the Consent Calendar and discussed and acted upon under the Regular Calendar**.
- E-9 Accepted the improvements under the "Municipal Service Center (MSC) Reroof, 1331 S. Ham Lane" contract, and approved the final Contract Change Orders.
- E-10 "Adopt resolution opposing the Bay Area 2001 Ozone Attainment Plan due to lack of mitigation of Bay Area air pollution blown to the Central Valley by prevailing winds" was **removed from the Consent Calendar and discussed and acted upon under the Regular Calendar**.

- E-11 "Adopt resolution authorizing the City Manager to amend the ground lease agreement with the Lodi Boys and Girls Club dated December 15, 1993, to include the lease of an additional 112' by 52' parcel of land located at Blakely Park, 1050 S. Stockton Street" was ***removed from the Consent Calendar and discussed and acted upon under the Regular Calendar.***
- E-12 "Adopt resolution approving installation of no-parking zones for left-turn pockets on Turner Road, in the vicinity of California Street/Edgewood Drive" was ***removed from the Consent Calendar and discussed and acted upon under the Regular Calendar.***
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F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Georgianna Reichelt introduced herself as the President of the Land Utilization Alliance, based in Stockton. She attended a public meeting last week on the subject of the Redevelopment Plan and Project Area Committee and stated that most of the individuals in attendance were in opposition to the Plan. She believed that the citizens of Lodi have not been fully informed about the potential negative consequences of redevelopment, e.g., eminent domain, decreasing property values, creation of debt, etc. She learned at a recent seminar that redevelopment is a government in itself that can borrow money without the peoples' approval, which in her opinion, circumvents the right of voters to control their tax dollars.

G. PUBLIC HEARINGS

- G-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Nakanishi called for the Public Hearing to consider the Technical Equipment Purchase Proposal for Local Law Enforcement Block Grant Program.

Police Chief Adams reported that a portion of the City match for the Local Law Enforcement Block Grant Program comes from the Police Department budget. This Program is done every year, and as a result, the Department has over \$1 million of computer technology. Staff proposes to use the grant funds to upgrade software in their existing computers.

In reply to Council Member Hitchcock, Chief Adams stated that the advisory board meets once each year. The board consists of: Doctor Rich Ferrera, Associate Superintendent of the School District; Robert Baysinger, Superior Court Judge; Patrick O'Hern, San Joaquin County Deputy District Attorney; Richard Jones, President of the Lodi Boys and Girls Club; Charles Mauch, Police Captain; Julie Wall, Investigations Secretary; and Chief Adams, who serves in an advisory capacity.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Pennino second, adopted Resolution No. 2001-229 authorizing the Lodi Police Department to purchase technical equipment that would enhance hardware and software that is being used by law enforcement personnel at the Lodi Police Department. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Howard, Pennino and Mayor Nakanishi
Noes: Council Members – None
Absent: Council Members – Land

- G-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Nakanishi called for the Public Hearing to consider adopting Resolution/Order to Vacate Pleasant Avenue, from Elm Street north to the alley.

Public Works Director Prima explained that changes need to be made to a portion of the street west of Pleasant Avenue to allow space for the Police building. The area includes five lots, with four owners. Adjacent property owners have been notified and a number of meetings have taken place with three of the property owners. The matter for Council consideration tonight is whether the southern portion is necessary for public circulation; staff has determined that it is not, and recommends that Council approve the abandonment. Staff will return to Council in the future with a recommendation for changes on the remaining half block of Pleasant Avenue.

Mayor Pro Tempore Pennino clarified that no decision is being made at this time regarding the area north of the alleyway. He referenced a letter (filed) from Steven Cottrell, and emphasized the need to address his concerns.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION:

Council Member Hitchcock made a motion, Howard second, to adopt Resolution No. 2001-230 vacating Pleasant Avenue, from Elm Street north to the alley.

DISCUSSION:

Mayor Pro Tempore Pennino suggested that when the section of street is closed off, it should be enhanced, such as a cul-de-sac design with alley access and two-way traffic. He was not in favor of making it one-way and forcing travelers to go in and out of the alley.

Mr. Prima replied that staff would consider the suggestion and include it in their next presentation to Council on the subject.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Hitchcock, Howard, Pennino and Mayor Nakanishi

Noes: Council Members – None

Absent: Council Members – Land

- G-3 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Nakanishi called for the Public Hearing to consider updating Development Impact Fees for water, wastewater collection, storm drainage, streets, police, fire, parks and recreation, and general City facilities, and amending Title 15, Chapter 15.64 of the Lodi Municipal Code.

Public Works Director Prima explained that the development impact mitigation fees that the City collects are used to offset the cost of providing public infrastructure that is not provided as part of normal development improvements, e.g., traffic signals, storm drain basins, new parks, etc. These are items related to growth, which developers are not expected to build as part of their projects; however, they do cause an impact to the community, and as such, they pay fees toward a fund used to help build these types of facilities. The City has been collecting development impact fees since the early 1990s. Staff is proposing a 30% increase to the impact fees and an annual adjustment mechanism.

Council Member Hitchcock pointed out that during discussions regarding the Public Art Policy she asked whether it would become part of the development impact fee report, and was told that it would be; however, it has not been included in the report.

Mr. Prima replied that the Public Art Policy was mentioned in the staff report for this item.

Council Member Hitchcock suggested that this item be deferred until the impact fee update report includes a section on Public Art Policy.

At the request of Council Member Howard, Mr. Prima summarized the proposed development impact fee update. Impact fees are charged per acre of development. Residential acre equivalent is used to convert for commercial and industrial projects. The current fee for residential development is approximately \$40,000 per acre. Under the proposal, this fee would increase to \$52,000. Industrial fees would increase from \$30,000 an acre to \$41,000. Retail commercial would increase from \$42,000 an acre to \$56,500.

Hearing Opened to the Public

- Georgianna Reichelt stated that the City is charging impact fees for development that should benefit general City facilities. She asked how streets, sewer, and water lines have deteriorated to such an extent, if fees have been collected for this purpose, and questioned where the money has been spent.

At the request of Mayor Nakanishi, Mr. Prima explained that the City cannot use impact fees to correct existing deficiencies.

- Dennis Bennett of Bennett Development stated that he served on the committees for the study of impact fees and the Public Art Policy. A thorough investigation was done of the projects that would be funded by these fees, as well as a review of applicable fees in surrounding communities and they found that the proposal was fair. He explained that as density and land use goes up, the fee also increases. There is no additional fee to developers for the Public Art Policy, as it was included in the 30% increase. Mr. Bennett urged the Council to approve staff's recommendation.
- Jeffery Kirst noted that he also served on both committees. He stated that the development community wants development to pay its fair share for infrastructure, to ensure that services are available as future growth occurs. He informed the Council that a dozen or two residential parcels throughout the City were formed or created prior to 1968. He requested that these parcels be grandfathered in, and not required to pay impact fees.

At the request of Mr. Bennett, Mr. Prima explained that there are a number of trigger dates for implementation. Overall, the new fees would go into effect 60 days from the date of adoption. Fees for water, sewer, streets, and drainage are collected at the time of map filing. Fees for Police, Fire, Parks and Recreation, and general City facilities are collected at the time of acceptance of improvements. For projects that have a deferral under a public improvement agreement, developers would have an additional year from the date of the agreement under the old fee structure. There are a number of tentative maps that have projects, which have already been approved. They would be granted until January 1, 2003 under the old fee structure.

- Wilburt Ruhl stated that he was disappointed that no Council Members attended the public meeting on the redevelopment plan last Tuesday. He distributed a copy of "*Redevelopment: The Unknown Government*" (filed) to Council Members.

Public Portion of Hearing Closed

In reference to Mr. Kirst's request, Council Member Hitchcock stated that she was not in favor of grandfathering in parcels created prior to 1968, noting that it still costs at today's dollars to develop the property. She reiterated her statement that the Public Art Policy was supposed to be included in the development impact fee update report and asked the City Clerk to provide her with a copy of the video in which the Policy was discussed.

Mayor Pro Tempore Pennino agreed that the development impact fee update report should include a section regarding the Public Art Policy.

Mayor Nakanishi felt that the documents as submitted were self-explanatory.

In response to Council Member Howard, Mr. Prima explained that the provision for the automatic update was based on the construction cost index, which is published monthly. Though the exact amount cannot be predicted, it has typically been 1% to 3%.

MOTION (#1):

Mayor Pro Tempore Pennino made a motion to adopt the resolution and introduce the ordinance for the approval of the development impact fees, with the inclusion of a section for the Public Art Policy.

DISCUSSION:

Public Works Director Prima pointed out that the resolution includes adoption of the report, and for this reason, he recommended that Council defer action on the resolution until the report is amended.

MOTION (#1) – AMENDED:

Mayor Pro Tempore Pennino amended his motion, Nakanishi second, to only introduce the subject ordinance.

DISCUSSION:

Council Member Hitchcock stated that she would not vote in support of the motion, as she preferred to see all the final documents prior to making a decision.

Council Member Howard concurred with Ms. Hitchcock.

VOTE:

The above motion **failed** by the following vote:

Ayes: Council Members – Pennino and Mayor Nakanishi

Noes: Council Members – Hitchcock and Howard

Absent: Council Members – Land

MOTION (#2) / VOTE:

Further, the City Council, on motion of Council Member Hitchcock, Howard second, continued the subject Public Hearing to the regular City Council meeting of October 17, 2001. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Howard, Pennino and Mayor Nakanishi

Noes: Council Members – None

Absent: Council Members – Land

RECESS

At 8:30 p.m., Mayor Nakanishi called for a recess, and the City Council meeting reconvened at 8:45 p.m.

G. PUBLIC HEARINGS (Continued)

- G-4 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Nakanishi called for the Public Hearing to consider adopting resolution adjusting water and wastewater rates.

Public Works Director Prima reported that staff is recommending a rate increase to maintain the Operating and Capital maintenance fund balance of 15%, as well as \$300,000 in water and \$600,000 in sewer for Capital needs. Sufficient funds are needed to begin a program to replace aging infrastructure. At the rate of funding proposed (approximately \$2 million a year) it would take a little over ten years to replace the 2" water pipes. Clay sewer pipe was used in older sections of the City, and in the 1930s concrete pipe was used, both of which need to be replaced. Under the program 10,000 feet of pipe per year on average would be taken out of the system and replaced. The target level for funding, for the purpose of establishing rates, is based on an average annual rate of replacing 1% of the system. Staff recommends establishing the rates now to be in effect in January 2002, with a second increase in July 2002.

Council Member Howard clarified that water and wastewater pipe replacement would be addressed at the same time.

At the request of Council Member Howard, Mr. Prima summarized the miscellaneous charges referenced on page one of the staff report. The rate structure for wastewater includes high-strength users, of which there are approximately twelve industries in the City. Because of the nature of their waste, they are charged based on a combination of flow, biochemical oxygen demand, and suspended solids. There are miscellaneous construction charges for water as well.

In response to Council Member Hitchcock, Mr. Prima reported that the industry claims the type of water and wastewater pipe used today will last 100 years. Lodi's soils are good in terms of stability and are non-corrosive. Pipe replacement will be contracted, but design, coordination, and valve operation will be done by the Public Works Department.

Senior Civil Engineer Charlie Swimley estimated that it would take three years to replace pipe between Lodi Avenue, Kettleman Lane, Cherokee Lane, and Stockton Street.

Mr. Prima noted that the pipe replacement referred to by Mr. Swimley is only for the 2" pipe. There are 6" and 8" pipes, which are not included in the program.

In reply to Council Member Hitchcock regarding an escalator cost, Mr. Prima stated that it is far too uncertain for staff to recommend something today that should be done two years from now. He stated that this issue was indirectly addressed, however, by establishing and confirming a policy as to what the fund balance should be. This will be used as a measure when the next two-year budget is developed. In the case of wastewater, a major expansion and upgrade of White Slough is anticipated. It is unknown how that might affect rates. Water supply issues might also have a significant impact on future water rates.

Council Member Hitchcock asked how the \$6 million was being accounted for that came from the water fund to pay for attorney fees related to the PCE/TCE issue. She emphasized that this money should not be reflected in the water rates.

Mr. Prima confirmed that the \$6 million was not going to be repaid through the rate increase. He explained that the fund balance was significantly higher when the money was deducted. Currently, the fund balance is close to what staff's recommended reserve is.

Hearing Opened to the Public

- Wilburt Ruhl stated that all utilities should go into the utility fund.
- Leo Vitale reported that today's newspaper indicated the rate increases would be 32% and 34%. He stated that it was unfair to base water rates on the number of bedrooms in a home, rather than the number of persons living in a home.

Mr. Prima stated that for a two-bedroom home the rate would increase from \$10.38 to \$12.98 in January and to \$16.22 in July.

Mayor Nakanishi pointed out that water meters cost \$1,000 each for purchase and installation.

Mr. Vitale favored the use of water meters for equity purposes.

Council Member Hitchcock commented that if water meters were financed using the same method as the 1% pipe replacement, then it would amount to only \$10 a year.

- Georgianna Reichelt stated that she worked with the press for 41 years, and objected to an earlier inference that they could be influenced in their reporting. She asked whether water rates collected for the past 20 years have been only for usage and not used for Capital improvements.

Mayor Pro Tempore Pennino recommended that Ms. Reichelt review the City's budget prior to making comments or allegations.

Ms. Reichelt countered that under the Brown Act the public has the right to make any comments they wish. She stated that she had made a previous attempt to get information pertaining to the meeting, but it was not available. Ms. Reichelt reiterated her earlier comments in opposition to the Redevelopment Plan and stated that it would negatively impact all taxpayers.

Mr. Prima clarified that there is a Capital Improvement Program in the water/wastewater utilities. Capital maintenance has been done at White Slough, and water wells and pipes have been replaced, typically at the time street projects have been done.

Mayor Nakanishi stated that there is a lack of billions of dollars for infrastructure improvements throughout the country. The program being proposed by Public Works is a long-range infrastructure project. Infrastructure improvements are often postponed so that rates can be kept at a minimum.

In reference to Ms. Reichelt's earlier comment regarding information related to Council meetings, City Manager Flynn noted that agendas and meeting packets are available for review in the Library and the City Clerk's Office.

Public Portion of Hearing Closed

Council Member Hitchcock stated that when the PCE/TCE settlements come through as anticipated, the \$6 million previously deducted from the water fund should be returned to reduce rates. The general fund should not be subsidized any more than necessary with in-lieu utility tax transfers; however, the utility transfers are needed to operate the City and it represents services and jobs.

Discussion ensued regarding the percentage for in-lieu utility tax transfers. City Manager Flynn clarified that the percentage for water is being decreased from 20% to 12%, sewer from 17% to 12%, and electricity remains unchanged at 12%.

Mayor Pro Tempore Pennino asked that the Finance Department give Ms. Reichelt and Mr. Ruhl copies of the City's budget. He also noted that agendas and Council packets are available on the City's web site, as well as in the City Clerk's Office on Friday before each regular Council meeting. He reported that he spent one and a half hours today reviewing the water and wastewater rates with Mr. Prima and the City Manager. He asked that a ten-year financial model be developed for water, sewer, and electricity. He explained that he was not in favor of water meters at this time because it would cost \$5 to \$10 million, and this money would be better used in repairing infrastructure. The last time water rates were increased was 1995, and wastewater in 1991. He asked that the purpose of the increase be identified as "infrastructure replacement" on the customer statements.

MOTION (#1) / VOTE:

The City Council, on motion of Council Member Hitchcock, Howard second, adopted Resolution No. 2001-231, pursuant to Section 13.08.010 of the Lodi Municipal Code, providing for and establishing rates to be charged for water service, and further directed staff to:

- add a line item on the utility bills identifying the water cost increase with a description specifying its purpose for infrastructure replacement;
- prepare a long-range, ten-year financial model spreadsheet identifying water, sewer, and electric expenses, including the dollar amount for the utility user tax over this period; and
- at the time of settlement related to the PCE/TCE issue, repay the water fund for the previous \$6 million expenditure, using the balance remaining after priority takes.

The above motion carried by the following vote:

Ayes: Council Members – Hitchcock, Howard, Pennino and Mayor Nakanishi

Noes: Council Members – None

Absent: Council Members – Land

MOTION (#2) / VOTE:

The City Council, on motion of Council Member Howard, Hitchcock second, adopted Resolution No. 2001-232, pursuant to Section 13.12.240 of the Lodi Municipal Code, providing for and establishing rates to be charged for sewer services, and further directed staff to:

- add a line item on the utility bills identifying the wastewater cost increase with a description specifying its purpose for infrastructure replacement; and
- prepare a long-range, ten-year financial model spreadsheet identifying water, sewer, and electric expenses, including the dollar amount for the utility user tax over this period.

The above motion carried by the following vote:

Ayes: Council Members – Hitchcock, Howard, Pennino and Mayor Nakanishi

Noes: Council Members – None

Absent: Council Members – Land

H. COMMUNICATIONS

H-1 Claims filed against the City of Lodi – None

H-2 Reports: Boards/Commissions/Task Forces/Committees – None

H-3 Appointments – None

H-4 Miscellaneous – None

I. REGULAR CALENDAR

- I-1 "Authorize the City of Lodi to participate with the Salvation Army in funding a new homeless shelter at 622 N. Sacramento Street"

Community Development Director Bartlam described the Salvation Army's new homeless shelter site. Acquisition will cost \$440,000, renovation \$245,000, and additional furnishings and fixtures are estimated at \$35,000. The Salvation Army has requested City funding of \$250,000 over a five-year period, which will be used toward renovation costs. Staff believes this would be a good investment for the City from the standpoint of assisting the homeless population, and furthering downtown revitalization goals by relocating the shelter to a better-suited location. Funding sources could include Electric Utility Public Benefits Program and funds from the Redevelopment Agency. If approved, staff would annually bring back the matter for Council consideration of the form and method of payment for the funds.

Mayor Pro Tempore Pennino commented that he met with Mr. Bartlam and the City Manager today to discuss this issue. He supported the shelter relocation and City funding; however, he felt that the wording regarding funding sources should be removed, as it has not yet been decided. The Council should allocate the funds annually through the budget process.

In response to Council Member Hitchcock, Mr. Bartlam explained that 20% of all redevelopment increment generated by the agency must go toward low and moderate income housing, for which the Salvation Army's project qualifies.

Council Member Hitchcock concurred with Mr. Pennino regarding elimination of the wording and dollar amounts for funding sources.

City Manager Flynn explained that under redevelopment rules, debt must be incurred in order to have a tax increment. Without debt there would be no tax increment for repayment. By putting funding for the Salvation Army's project through the redevelopment process, it allows the possibility for repayment of City funds – as opposed to merely deducting \$50,000 per year from the General Fund.

Mr. Bartlam noted that staff is also working on a State Emergency Shelter Grant on behalf of the Salvation Army.

Council Member Hitchcock stated that money does not have to be borrowed to get the tax increment.

Mr. Bartlam replied that borrowing money and incurring debt are not synonymous. In redevelopment, debt is used as a financing tool. Increment cannot be obtained without being active.

City Attorney Hays explained that the increment stays in the county's coffers until the City makes a claim on the money, after having done something that creates a need for the money to flow to it.

Mayor Nakanishi stated that he voted against redevelopment for the reasons being discussed, i.e., redevelopment is debt.

Mayor Pro Tempore Pennino asked Mr. Prima to ensure that bus transit routes will include the new Salvation Army shelter location.

PUBLIC COMMENTS:

- Annette Murdaca stated that she has been working on Lodi House, a women's homeless shelter, for the past three to four years. Lodi House is not able to service the needs of women who need emergency overnight housing. The new Salvation Army shelter will have space for women and children.
- Suzanne Clay, Executive Director of Lodi House, spoke in support of the Salvation Army's new homeless shelter. She stated that Lodi House can only service five families at a time for a two- to three- month program, but cannot provide emergency shelter as the Salvation Army can.
- Janice Roth, Salvation Army Board Chairman, commented that the Salvation Army depends on donations. Escrow on the new shelter is slated to close in November.
- Kevin Woods, Director of the Salvation Army Archway Shelter, conveyed the apologies of new Commanding Officers in Lodi, Captains Frank and Susan Severs, who wished to attend tonight's meeting, but were called out of town. Mr. Woods reported that the Archway Shelter served 6,500 meals last month. They hope to expand programs with the new facility.

MOTION/ VOTE:

The City Council, on motion of Mayor Pro Tempore Pennino, Howard second, authorized the City of Lodi to participate with the Salvation Army in funding a new homeless shelter at 622 N. Sacramento Street in the amount of \$250,000 over a five-year period, or less, with the funding source to be determined each year during the budget process. The above motion carried by the following vote:

Ayes: Council Members – Hitchcock, Howard, Pennino and Mayor Nakanishi
Noes: Council Members – None
Absent: Council Members – Land

- I-2 "Authorization for City Manager to enter into a professional services agreement for appraisal of City facilities"

Deputy City Manager Keeter reported that the City needs to update its database of assets, properties, and facilities for insurance purposes and in anticipation of financing and refinancing certain projects.

In reply to Council Member Hitchcock, Ms. Keeter explained that the City needs to show that it has a certain threshold of appraised assets prior to getting a bond. It is anticipated that \$35 million worth of appraised assets will be needed in order to finance and refinance projects.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Pennino, Howard second, authorized the City Manager to enter into a professional services agreement with MAXIMUS for appraisal of City facilities. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Howard, Pennino and Mayor Nakanishi
Noes: Council Members – None
Absent: Council Members – Land

RECESS

At 10:30 p.m., Mayor Nakanishi called for a recess, and the City Council meeting reconvened at 10:40 p.m.

I. REGULAR CALENDAR (Continued)

E-3 "Receive PCE/TCE Report of Expenditures"

In reference to earlier discussions, Council Member Hitchcock reported that the City's debt management policies state that no more than 60% of all Capital projects will be funded from long-term financing and direct debt will not exceed 2% of the City's assessed valuation. Finance Director McAthie confirmed that 2% of the City's assessed valuation only applies to general obligation bonds; however, this is not clearly specified in the budget document. Ms. Hitchcock suggested that this be clarified for future reference purposes.

In regard to Item E-3, Council Member Hitchcock stated that the public should be updated at least semi-annually to review PCE/TCE expenditures, who the money went to, and what sources it was taken from. She had contacted Deputy City Manager Keeter earlier to request that City Attorney Hays would be prepared to discuss the terms of the agreement for the Lehman Brothers financing.

City Attorney Hays stated that he had not been advised regarding Ms. Hitchcock's request for a report on this subject.

Council Member Hitchcock suggested that the item be continued until the next regularly scheduled City Council meeting and be placed under the Regular Calendar.

City Manager Flynn explained that the PCE/TCE report covers expenditures over five fiscal years and reflects to which companies, corporations, and businesses the money was spent. It lists nine separate firms in which the City has incurred expenses and made reimbursements. The total expenditures over a five-year period has been \$11 million, of which \$6.3 million was paid out of the City's water fund. The remainder of expenditures has been the proceeds from the Certificate of Participation (COP). He reminded Council that approximately one and a half years ago the City incurred an obligation in which it obtained a \$15 million COP, which is a revolving fund. It was set up so that the City could incur expenditures on behalf of the PCE/TCE program, and as money came in, it would be paid back into the fund. Staff believes the program will be successful and the water fund will be repaid. Money will also be used to make changes in the City's water system to ensure that the public has safe drinking water.

Council Member Hitchcock reiterated her desire for this item to be continued to the next meeting for discussion of expenditures, financing, terms, etc.

MOTION:

Mayor Pro Tempore Pennino made a motion to receive the PCE/TCE Report of Expenditures. The motion **died** for lack of a second.

E-8 "Adopt resolution awarding contract for Outdoor Skate Park Facility, 1145 South Ham Lane, to A.M. Stephens Construction Company, Inc., of Lodi (\$222,150)"

Council Member Hitchcock noted that the Council received a "blue sheet" (filed) on this item and asked that when information is presented to Council just prior to the start of the meeting, the item should be pulled from Consent and considered under the Regular Calendar.

City Manager Flynn explained that there had been an error in calculation, which was reflected on the "blue sheet." The project estimate is \$265,000; the Capital Improvement Fund is \$190,000 (not \$216,000 as previously reported); the Public Benefits Program lighting is \$18,750; and the Electric Utility Capital, 75% of the lighting, is \$56,250.

Discussion ensued regarding whether it was appropriate to fund \$56,250 from Electric Utility Capital. Council expressed concurrence to charge this amount to the General Fund Capital Improvement instead.

In response to Council Member Hitchcock, City Attorney Hays reported that the Skate Park lawsuit is pending. A meeting with the parties has been scheduled for October 12, in accordance with the California Environmental Quality Act's mandatory settlement requirement. Mr. Hays stated that the Council is not faced with an injunction not to move forward on the project.

Council Member Hitchcock stated that had she been present, she would have voted against moving forward on this project when the issue came before Council after the lawsuit was filed.

MOTION:

Mayor Pro Tempore Pennino made a motion to adopt Resolution No. 2001-233 awarding the contract for Outdoor Skate Park Facility, 1145 S. Ham Lane, to A.M. Stephens Construction Company, Inc., of Lodi, in the amount of \$222,147.60 and amend the funding/appropriation request to deduct \$56,250 from the General Fund portion of the Capital Improvement Program, rather than from the Electric Utility Capital, as specified in the amended Council Communication (filed).

DISCUSSION:

Mayor Pro Tempore Pennino stated that if Ms. Hitchcock's rationale were used in all instances, every time a lawsuit was filed, the City would cease conducting its business.

VOTE:

Council Member Howard seconded the above motion, which carried by the following vote:

Ayes: Council Members – Howard, Land and Pennino

Noes: Council Members – Hitchcock

Absent: Council Members – Land

- E-10 "Adopt resolution opposing the Bay Area 2001 Ozone Attainment Plan due to lack of mitigation of Bay Area air pollution blown to the Central Valley by prevailing winds"

At the request of Council Member Hitchcock, Public Works Director Prima reported that the City was asked by the San Joaquin Valley Air Pollution Control District to support its opposition to the Bay Area 2001 Ozone Attainment Plan. It has been documented that a substantial amount of air pollutants from the Bay Area move into the Central Valley from the prevailing winds.

City Manager Flynn added that because Bay Area pollutants are being blown into the Valley, their air quality tests better, and they do not have the same standards imposed on them that the Central Valley is faced with.

MOTION:

Council Member Hitchcock made a motion, Nakanishi second, to adopt Resolution No. 2001-234 opposing the Bay Area 2001 Ozone Attainment Plan due to lack of mitigation of Bay Area air pollution blown to the Central Valley by prevailing winds.

DISCUSSION:

Mayor Pro Tempore Pennino asked staff to find out whether San Joaquin County Supervisor Jack Sieglock is in agreement with the request to oppose the Bay Area's Plan. In the event he disagrees, the matter should be brought back to Council for further discussion.

MOTION – AMENDED / VOTE:

The above motion was amended to further direct staff to obtain San Joaquin County Supervisor Sieglock's concurrence and bring the item back to Council for reconsideration should Supervisor Sieglock be in disagreement. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Howard, Pennino and Mayor Nakanishi

Noes: Council members – None

Absent: Council Members – Land

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Mayor Pro Tempore Pennino, Hitchcock second, voted to continue with the remainder of the meeting following the 11:00 p.m. hour. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Howard, Pennino and Mayor Nakanishi

Noes: Council members – None

Absent: Council Members – Land

I. REGULAR CALENDAR (Continued)

- E-11 “Adopt resolution authorizing the City Manager to amend the ground lease agreement with the Lodi Boys and Girls Club dated December 15, 1993, to include the lease of an additional 112' by 52' parcel of land located at Blakely Park, 1050 S. Stockton Street”

In reply to Mayor Pro Tempore Pennino, Deputy City Manager Keeter reported that she contacted the Boys and Girls Club and confirmed that they had gone door to door notifying residents on Poplar Street to Central Avenue, on Washington Street from Watson Street to Kettleman Lane, and on the side streets to Central Avenue, regarding their proposal for the property. Residents were very supportive of the proposal.

MOTION:

Mayor Pro Tempore Pennino made a motion to adopt Resolution No. 2001-235 authorizing the City Manager to amend the ground lease agreement with the Lodi Boys and Girls Club dated December 15, 1993, to include the lease of an additional 112' by 52' parcel of land located at Blakely Park, 1050 S. Stockton Street.

DISCUSSION:

Council Member Hitchcock stated that this item should not have been placed on the consent calendar because it had not been previously discussed with Council. She asked for a summary on the proposed amendment to the ground lease agreement.

Ms. Keeter stated that the Lodi Boys and Girls Club has a ground lease with the City of Lodi. The City leases the ground to the Club, and the Club constructed the building. They are proposing to submit an application through the Community Development Block Grant Program to construct a concrete slab for the purpose of having an outdoor area for tables, games, etc., equipment of which would be rolled back into the facility after hours. Two underutilized horseshoe pits would be removed to make room for the concrete slab.

VOTE:

Council Member Hitchcock seconded the above motion, which carried by the following vote:

Ayes: Council Members – Hitchcock, Howard, Pennino and Mayor Nakanishi

Noes: Council Members – None

Absent: Council Members – Land

- E-12 "Adopt resolution approving installation of no-parking zones for left-turn pockets on Turner Road, in the vicinity of California Street/Edgewood Drive"

Mayor Pro Tempore Pennino referenced a letter Council received from Barbara Vallarino (filed) requesting that the length of the transition area be decreased from 97 feet to 80 feet.

Council Member Hitchcock pointed out that this was another controversial item that should not have been placed on the Consent Calendar and recommended that staff review the guidelines for Consent Calendar items as submitted by the City Clerk at a previous City Council meeting.

In response to Mayor Pro Tempore Pennino, Public Works Director Prima indicated that Ms. Vallarino's request could be accommodated.

In reply to Council Member Howard, Mr. Prima stated that if the requested change were made, it would need to be done on both sides of the street.

PUBLIC COMMENTS:

- Phillip Robertson agreed with Ms. Hitchcock that this item should not have been placed on the Consent Calendar. He had been expecting to come to a public hearing to discuss the issue, prior to it being brought to Council for a decision. He stated that he has lived on Turner Road since August 1998 and has seen several accidents. He believed that the speed limit is too high. Motorists attempting to make a left turn are not correctly judging the speed of oncoming traffic. Turn lanes will not solve the problem. The speed limit should be decreased until such time as a traffic signal is installed.

In response to Mayor Nakanishi, Mr. Prima stated that staff is conducting a thorough review of upcoming Capital needs and funding issues. There are many demands on the street fund at this time. A traffic signal on this area of Turner Road could be three to seven years away. Mr. Prima stated that decreasing the speed on Turner Road would not change the accident pattern.

City Manager Flynn stated that staff would be bringing the street light issue back to Council to provide an opportunity to change the priorities if desired.

MOTION:

Mayor Pro Tempore Pennino made a motion, Hitchcock second, to adopt Resolution No. 2001-236 approving installation of no-parking zones on Turner Road in the vicinity of California Street/Edgewood Drive, to accommodate the installation of left-turn pockets, and further direct staff to amend Exhibit A of the resolution to accommodate one parking space in front of the property located at 419 W. Turner Road

DISCUSSION:

Council Member Hitchcock stated that staff's recommendation is reasonable in this particular instance; however, she did not want to set a precedence of voting in favor of similar matters in the future.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Hitchcock, Howard, Pennino and Mayor Nakanishi

Noes: Council Members – None

Absent: Council Members – Land

J. ORDINANCES

None

K. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Howard reported that she attended the Northern California Power Agency (NCPA) conference last week and found it very interesting. There were a number of representatives in attendance from throughout the state, individuals representing the power exchange, and other municipally-owned power companies. Updates were given regarding the Federal Energy Regulatory Commission, Pacific Gas and Electric, and Southern California Edison. She thanked all representatives from NCPA for hosting the conference, as well as local utility representatives.
- Council Member Hitchcock thanked the Council and staff for tonight's discussion. She stated that public trust is built by openly discussing all issues.
- Mayor Pro Tempore Pennino noted that in the last budget, the Council approved additional funding for increased Library hours of operation. It was his understanding that this was not going to move forward, and he asked that the matter be placed on a future Council agenda to explain why.

City Manager Flynn replied that there has been a delay due to the obligation to meet and confer with the union regarding the change in hours of operation. Negotiations are currently in progress.

Council Member Hitchcock noted that the addition of Library staff was contingent on the increased hours of operation. The staff should not be added if the hours are not increased.

- Mayor Nakanishi reported that approximately ten months ago he attended a conference in Reno on the subject of weapons of mass destruction. Since then he has been assured by the City Manager, Chief of Police, and Fire Chief that the City of Lodi is prepared for such incidents. An emergency preparedness program has been planned for April of next year.

L. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager Flynn announced that it is Council Member Hitchcock's birthday tonight.

Council Member Hitchcock thanked her husband for the balloons and singing telegram delivered earlier in the meeting.

City Manager Flynn thanked Council Member Howard for participating in the Celebration on Central event, which took place last weekend. He also announced that \$4 million was received from the state today for the Police Department and it has been deposited in the bank.

Discussion ensued regarding Council meeting dates for the months of November and December. The consensus of the Council was to leave the regular meeting dates and times unchanged as long as a quorum will be in attendance.

Mr. Flynn also provided the following information:

1. There was a recent article in the Wine Enthusiast that highlighted Lodi.
2. The ribbon cutting for Elm Street is scheduled for November 15.
3. Grass at the Katzakian Park has grown in and is being mowed.
4. Flu shots are available free of charge for City employees.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 11:43 p.m.

ATTEST:

Susan J. Blackston
City Clerk